

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13826, of Elizabeth C. Ely, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the side yard requirements for a two story accessory building (Sub-section 7601.3) to permit remodeling of and addition to an accessory building used as a teacher's residence in a D/R-1-B District at the premises 2107 Wyoming Avenue, N.W., (Square 2527, Lot 87).

HEARING DATE: September 22, 1982  
DECISION DATE: October 6, 1982

FINDINGS OF FACT:

1. The subject application appeared on the preliminary calendar of the public hearing of September 22, 1982. The affidavit of posting in the record evidenced that the property was posted seven days prior to the public hearing instead of ten days as required under the Supplemental Rules of Practice and Procedure before the BZA. The applicant's representative testified that the property was actually posted ten days prior to the public hearing and that the date on the affidavit was in error, reflecting the date that the addidavit was notarized and filed in the Office of the Zoning Secretariat. The Chair ruled that the property was properly posted and that case could go forward on its merits.

2. The subject property is located on the north side of Wyoming Avenue west of Connecticut Avenue and is known as premises 2107 Wyoming Avenue, N.W. It is zoned D/R-1-B.

3. The subject property is rectangular in shape. The topography of the site is not level. The ground slopes downward from the Wyoming Avenue frontage to the rear of the property.

4. The subject property is improved with a large, three-story and basement residential structure and a two-story accessory building at the rear of the property. Both structures were built in 1911. The accessory building is located directly adjacent to the rear and west side lot lines.

5. The large main structure is occupied by the Field School, a private school for grades seven through twelve, pursuant to Certificate of Occupancy No. B-120393, dated

September 5, 1980. Prior use of the large structure as a private school dates back to August 6, 1942. The accessory building is presently vacant. Prior use of the accessory building was as a garage with a teacher's residence on the second floor.

6. The applicant proposes to construct a one-story addition and renovate the accessory building for use of the entire structure as a teacher's residence.

7. The slope of the property creates a water run-off from the Wyoming Avenue frontage to the rear of the property. The contractor testified further that the proposed one-story addition would provide foyer space for the residence and would be elevated approximately eight inches from the ground to prevent water from entering the building.

8. In order to comply with the eight foot side yard requirement, the existing building would have to be relocated on the site and that that alternative would be impractical and expensive.

9. The applicant has owned the subject property for two years. The accessory building has been vacant since approximately 1968. The applicant proposes to use the building as a residence for one or two teachers, preferably a married couple. It is the applicant's opinion that a teacher living on the school premises would provide security when the school is closed. Parking for the proposed residence is provided on-site.

10. Dr. Leonard Topper, on behalf of the Board of Directors of the Dresden Condominium, which is adjacent to the subject property, appeared at the public hearing to present the opposition to the application based on the following:

- a. The property is not unique with regard to size, shape or topographic conditions. The applicant can provide alternative housing for its teachers.
- b. Denying the variance will not result in peculiar and exceptional practical difficulties to or undue hardship upon the owner. If the variance is granted, the building will be converted to a residence in contravention of Sub-section 7601.3 and close to property lines.
- c. Granting the variance will result in substantial detriment to the public good. The proposed residence will increase existing overcrowding and parking problems in the area and its location on

lot lines will intrude on the privacy of the residents of the Dresden.

Dr. Topper testified that the students of the school and maintenance activities created an adverse impact because of noise. The Dresden further recommended that if the application were granted that the Board require the following:

- a. Beautification of the property by proper upkeep and landscaping.
- b. Erection of barriers that are in keeping with the architecture of the neighborhood, to shield the Dresden from noise generated by the use of the building as a residence in such close proximity to neighboring property.
- c. Requirements for proper facilities for garbage and trash removal from the site.
- d. Such other measures as the Board determines are necessary to minimize the detrimental effects of the proposal.
- e. Mechanisms for the effective enforcement of these conditions.

11. In addressing the issues raised by the Dresden, the Board finds:

- a. The contractor testified as to the topography of the site as noted in Finding of Fact No. 7.
- b. The contractor further testified to the practical difficulties inherent in the property as noted in Finding of Fact No. 8.
- c. The subject application does not request a use variance which carries the burden of proving an undue hardship upon the owner.
- d. The Zoning Administrator has determined that the residence for teachers is an accessory use to the school. The application is only before the Board with regard to the area variance necessitated by the proposed one story addition.
- e. The applicant testified in Finding of Fact No. 9 that parking for the use is provided on-site and that only one or two people will occupy the residence. Further, the location of the accessory building on the lot lines has existed since 1911. It is unlikely that the limited use of the

building as described will cause the adverse impact feared by the adjoining condominium.

- f. The use of the main building as a school is not before the Board.

12. Mr. Lawrence Berman, a resident of 2100 Connecticut Avenue also appeared in opposition to the application. Mr. Berman's opposition was based on the increasing encroachment of the school into a residential area, the deteriorating condition of the property, and the increase in competition for on-street parking in the area caused by visitors to the school.

13. There are two letters of opposition in the record which support the views of Dr. Topper and Mr. Berman with regard to overcrowding and congestion, encroachment into a residential area, lack of necessary set backs, lack of on-street parking, and excessive traffic and noise.

14. As to the additional issues raised in opposition, the Board finds that the use of the premises as a school is not at issue. There is a proper, lawfully issued Certificate of Occupancy for use of the premises as a school. The accessory building could be used as a residence for teachers without Board approval. The only variance necessary is for the small addition, comprising only sixty square feet, to serve as an entrance foyer. Such addition is unlikely to cause the adverse impacts cited by the opposition.

15. Marilyn Akins, a resident of 2000 Connecticut Avenue, N.W. appeared as a proponent. Ms. Akins testified that the school use did not create objectionable noise impacts and that the presence of a twenty-four hour resident on the property would add to security in the area. There are eight additional letters of support in the record which support Ms. Akins testimony.

16. Advisory Neighborhood Commission 1D made no recommendation on the application.

17. The Office of Planning and Development recommended that the application be approved. The OPD found that a practical difficulty exists in that the building was constructed in 1911, predating the Zoning Regulations and not conforming to current side yard requirements. Strict compliance with the Zoning Regulations would require demolition and/or relocation of the structure since it does not meet the side yard requirements. The OPD was of the opinion that renovation of the existing accessory building is more desirable than demolition and new construction. The Board concurs with OPD's recommendation.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking an area variance which requires a showing of a practical difficulty that is inherent in the property itself and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan.

The Board concludes that the existing non-conforming accessory building which pre-dates the 1958 Zoning Regulations and the sloping grade of the site constitutes an exceptional condition of the property. The Board further concludes that the applicant would suffer a practical difficulty if the Zoning Regulations were strictly applied.

The Board concludes that the concerns of the opposition are addressed to the use of the property by the school. The Board further concludes that use of the accessory building as a residence for teachers is permitted and can go forward without relief from the Board. The Board further concludes that the proposed addition to the accessory building is necessary to alleviate the problems of water run-off created by the topography of the site.

The Board concludes that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan. Accordingly, it is ORDERED that the application is GRANTED.

VOTE: 5-0 (Douglas J. Patton, Connie Fortune, William F. McIntosh and Charles R. Norris to GRANT; Lindsley Williams to GRANT by PROXY).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER:

JAN 18 1983

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS.

13826order/JANE91